

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

EDWARD EVERHART,)
Plaintiff)
v.) No. 3:02-cv-639
JO ANNE B. BARNHART,)
Commissioner of)
Social Security,)
Defendant)

MEMORANDUM AND ORDER

This matter was referred to a United States Magistrate Judge of this district pursuant to 28 U.S.C. § 636(b), Rule 72(b), Federal Rules of Civil Procedure, and the Rules of this court for a report and recommendation regarding disposition of plaintiff's motion to remand pursuant to sentence six or sentence four of 42 U.S.C. § 405(g) [Court File #21], and defendant's motion for summary judgment [Court File #30]. On July 25, 2005, the United States Magistrate Judge recommended that plaintiff's motion be denied and defendant's motion be granted. Plaintiff filed a timely objection to the report and recommendation.

Upon a *de novo* review of the record in this case, the magistrate judge's report and recommendation, and the plaintiff's objections thereto, I am in agreement with the United States magistrate judge. Specifically, there is substantial evidence in the record to demonstrate that plaintiff had the residual functional capacity to perform sedentary work under certain circumstances between May 9, 1996, and his 50th birthday, and that the defendant commissioner complied with the spirit of the previous remand orders. Accordingly, plaintiff's motion to remand pursuant to sentence six or sentence four of 42 U.S.C. § 405(g) [Court File #21] is DENIED, the defendant's motion for summary judgment [Court File #30] is GRANTED, and this action is hereby DISMISSED.

E N T E R :

s/ James H. Jarvis

UNITED STATES DISTRICT JUDGE